IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 4TH DECEMBER 2007 / 13TH AGRAHAYANA 1929

W.P(C).No. 35327 of 2007 (E)

PETITIONER:

1. MRS. PANKAJAVALLY P.T.,
PADINJAKKARA THOTTASSERY,
PALLIKKAL, PALLAM P.O.,
CHERUTHURUTHY, THRISSUR-679531.

2. MR. UPENDRAN.P,
JANAKI SADAN, THENNILAPURAM,
ALATHUR, PALAKKAD.

BY ADV. SRI.K.MANOJ CHANDRAN
SRI.P.R.AJITHKUMAR

RESPONDENTS:

1. THE DISTRICT COLLECTOR &
DISTRICT MAGISTRATE, THRISSUR.

2. THE SUPERINTENDENT OF POLICE,
THRISSUR.

3. THE TAHSILDAR,
TALAPPILLY TALUK, THALAPPILLY.

4. THE AUTHORIZED OFFICER,
HDFC LTD., HDFC HOUSE, IIIRD FLOOR,
RAVIPURAM JUNCTION, M.G.ROAD,
KOCHI-682015.

5. HDFC LTD., HDFC HOUSE,
III RD FLOOR, RAVIPURAM JUNCTION,
M.G.ROAD, KOCHI-682015, REPRESENTED BY ITS
CHIEF MANAGER.

BY ADV. SRI.K.K.CHANDRAN PILLAI, SC, HDFC
GOVT. PLEADER, SRI. I.V. PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) No. 35327 OF 2007 - E

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Dated this the 4th day of December, 2007

J U D G M E N T

Petitioner No. 1 was issued Ext. P1 notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. Petitioner responded by Ext. P2 reply and thereupon Ext. P3 order was passed. As the default continued, Bank has initiated proceedings under Section 14 and Ext. P4 discloses that also. It is at that stage this writ petition has been filed by the petitioner challenging the proceedings initiated.

2. Respondents 4 and 5 have filed a statement in which it is stated that both the petitioners were well placed in service and that after availing of the loan they have committed 33 consecutive defaults. It is also stated that the cheques issued were dishonoured. Despite cases filed under Section 138 of the Negotiable Instruments Act even service of summons has been deliberately avoided. It is stated that on account of the chronic

default that was committed for a long period the only option available to them was to have initiated proceedings under the Securitisation Act. Respondents therefore attempt to justify the action what they have done.

3. As at present going by the figures indicated, the amount due from the petitioner is Rs.5,13,621/-. Petitioner has contentions on merits of the claim raised by the respondents and those contentions were urged by the petitioner in Ext.P2. It was considering this that the Bank has issued Ext.P3 rejecting the contentions. It was thereafter that the proceedings were initiated under Section 14 of the Act. In these circumstances, the remedy available to the petitioner is to pursue the matter by approaching the appellate authority created under the Act.

Writ petition fails and is dismissed.

ANTONY DOMINIC
JUDGE

jan/-